

REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1-50 remain in the application. Claims 1 and 40-50 have been amended to more particular point out the invention. Claims 35-39 have been canceled.

Rejections Under 35 U.S.C. § 103(a)

Claims 1-50 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,319,542 of King et al. (“King”) in view of U.S. Patent No. 5,758,327 of Gardner (“Gardner”) and further in view of U.S. Patent No. 5,315,504 of Lemble (“Lemble”).

Applicants respectfully submit that the combination of King, Gardner, and Lemble do not disclose nor suggest each and every element of claims 1, 40, and 46, as amended to more properly define preexisting claim limitations and as supported by the specification at least at pages 40-42.

Applicants continue to concur with the Examiner’s assertion that the combination does not explicitly disclose an electronic receipt. Furthermore, as noted below, Applicants continue to seasonably traverse and object to the official notice relating to the claimed electronic receipts. Nonetheless, even if the official notice is proper, Applicants respectfully submit that the combination and the official notice still do not disclose nor suggest “the electronic receipt to electronically indicate one of an acceptance or rejection of a received operating resource and facilitate a payment for the accepted operating resource upon acceptance,” as amended in claim 1. Specifically, Applicants submit that the combination and the official notice do not disclose nor suggest that users might electronically facilitate the payment of an accepted operating resource using an electronic receipt, as amended, because such receipts are not a common, ordinarily used item in everyday business. The Examiner has taken Official Notice that prior art financial

accounting systems include electronic receipts to permit companies to supervise the various actors in a requisition process. However, references have not been presented in support of such an assertion per MPEP §2144.03, and neither would the Official Notice disclose each and every element of claim 1, as amended.

Accordingly, Applicants respectfully submit that the combination and the Official Notice do not disclose nor suggest each and every element of claim 1, as amended. Amended claims 40 and 46 include similar elements or elements similar to those recited in claim 1 that are patentable over the combination and the Official Notice, as discussed above. Therefore, Applicants respectfully request the rejection to the claims under 103(a) be withdrawn for claims 1, 40, and 46 and accordingly for the dependent claims 2-34, 41-45 and 47-50 respectively.

Response to Official Notice Arguments

Applicants respectfully submit that according to MPEP §2144.03, in “limited circumstances, it is appropriate for an Examiner to take official notice of facts not in the record or to rely on ‘common knowledge’ in making a rejection.” Furthermore, it “would not be appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.”

The Office Action mailed December 31, 2003, states that “Applicant has not specifically pointed out the supposed errors in the Examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.” Applicant respectfully disagrees with this assertion. Applicants specifically pointed out on page 3-6 of the response mailed September 29, 2003, why the Official Notice is not common knowledge, which is again repeated here:

“There is no indication that any prior art systems disclosed any electronic form used to acknowledge that goods or services have been received, via an electronic receipt, as recited in claims 1, 40, and 46. Issued patents, such as King and Gardner, highlight the advantage of overcoming the manual, labor intensive and costly operation of typical procurement systems and inventing a new and improved electronic procurement/requisition system (see King, col. 1, lines 12-25). The electronic receipts, as claimed, is *an improvement* to prior art electronic procurement/requisition systems and overcome the notification in “paper form” as disclosed in the office action, at least because of the speed of delivery and simple recordation, without subsequent data entry or physical filing, among other advantages. The “notices” recited in the Office Action and equated to “electronic receipts” to financial and managerial accounting, fail to disclose and recognize that a requestor of an ordered item may use the electronic receipt to accept or reject the ordered item. Furthermore, the electronic receipt may trigger a payment to be made for the ordered item upon generating the electronic receipt, as claimed in claims 44 and 50. Typically, electronic commerce systems require payment of an ordered item before an item is shipped. The use of an electronic receipt allows for the payment of an ordered item by, for example, a purchasing agent after the requestor of the ordered item has acknowledged satisfactory delivery. Furthermore, electronic receipts overcome problems of communicating a reason why an ordered item was rejected (or accepted) by including commentary, as claimed in claims 41, 43, 45, and 48. This is especially helpful to a supplier if a third party shipping carrier, such as Federal Express, simply returns the ordered item to the supplier without an explanation as to why the order was rejected, which is typically the case. The combination does not suggest using electronic receipts in electronic commerce. The mere fact that King, Gardner or Lemble might be later modified to allow for such an electronic receipt does not render the claims obvious [MPEP §2143.01].”

Therefore, Applicants respectfully submit that Applicants have specifically pointed out the supposed errors in the Examiner’s action, which includes stating why the noticed fact is not considered to be common knowledge nor well-known in the art under MPEP §2144.03. For example, Applicants specifically pointed out in the previous response that the official notice of the “accounting” receipts relied on in the Office Action mailed July 2, 2003, are in “paper form” and do not disclose and recognize that a

requestor of an ordered item may use the electronic receipt to electronically accept or reject the ordered item.

If the Examiner is under the belief that the traverse was inadequate, the Examiner should include an explanation as to why it was inadequate. Specifically, given the traverse statements of Applicants, the Examiner should include an explanation, at least, as to why:

Prior art financial and managerial accounting, **do** disclose and recognize that a requestor of an ordered item may use the electronic receipt **to electronically accept or reject the ordered item; and**

the prior art receipt **do trigger a payment** to be made for the ordered item upon generating the receipt.

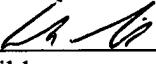
Accordingly, Applicants respectfully submit that Applicants' response mailed September 29, 2003 did provide an adequate traverse with specific reference to the Examiner's assertion of official notice because Applicants have specifically pointed out the supposed errors in the Examiner's action, *including stating why the noticed fact is not considered to be common knowledge or well-known*. Therefore, Applicants submit that the assertions of admitted prior art in the Office Action is improper and respectfully submit that the statement be withdrawn and documentary evidence be presented in the next Office Action under MPEP §2144.03(C). Applicants also recognize that received pages 266-267 of Accounting, Information Technology and Business solution, do not explicitly disclose an electronic receipt to electronically indicate acceptance or rejection of an ordered item, as claimed.

If there are any additional charges, please charge Deposit Account No. 02-2666
for any fee deficiency that may be due.

Respectfully submitted,

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